

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

DeJuan Haywood Haggins,

Civil No. 15-59 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Ramsey County and Ramsey County Corrections  
Officers Scott Brommerich, C.O. Whipps,  
C.O. Reniteria, C.O. Frerichs, and Sgt. Sontoya,

Defendants.

This matter is before the Court upon *Pro Se* Plaintiff DeJuan Haywood Haggins' objections (Doc. No. 58) to Magistrate Judge Leo I. Brisbois's January 26, 2016 Report and Recommendation (Doc. No. 57) insofar as it recommends that: (1) Defendants' Motion to Dismiss for Lack of Jurisdiction be granted in part and denied in part; and (2) Plaintiff's claims against Defendant Sontoya be dismissed without prejudice. The Defendants filed a memorandum in response to Plaintiff's objections on February 23, 2016. (Doc. No. 62.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

In the Report and Recommendation, Magistrate Judge Brisbois first recommended that Plaintiff be deemed to have abandoned both his state law claims against the individual Defendants and his separate, respondeat superior/vicarious liability claim against Defendant Ramsey County by failing to reallege those claims in his Amended Complaint. (Doc. No. 57 at 6.) The Magistrate Judge pointed out that, in his Amended Complaint, Plaintiff only alleges that the individual Defendants violated his rights under the Fourth and Eighth Amendments. (*Id.*)

Second, the Magistrate Judge considered the merits of Defendants' motion to dismiss the claims against the individual Defendants for lack of personal jurisdiction due to insufficient service of process. The Magistrate Judge noted that since the filing of that motion, four Defendants (Defendants Brommerich, Frerichs, Reniteria, and Whipps) authorized their attorney to accept service on their behalf, and the attorney has accepted such service. The Magistrate Judge concluded that the motion to dismiss was thus rendered moot as to those Defendants. (*Id.* at 8.) However, as to Defendant Sontoya, the Magistrate Judge found that the evidence in the record indicates that Plaintiff failed to properly effect service of process, and, therefore, the Court lacks personal jurisdiction over Defendant Sontoya. (*Id.* at 8-9.) The Magistrate Judge also concluded that Plaintiff did not demonstrate good cause to further extend the time to serve Defendant Sontoya. (*Id.* at 11.) Accordingly, the Magistrate Judge recommended granting in part and denying in part Defendants' motion to dismiss.

In his Objections, Plaintiff submits that his state law tort claims against the individual Defendants and his respondeat superior claims against Ramsey County were accidentally omitted from the Amended Complaint and notes that he has filed a Motion to File Third Amended Complaint. Defendants respond that the Magistrate Judge properly ruled that Plaintiff abandoned his state tort and vicarious liability claims by filing an Amended Complaint that did not include those claims. Defendants submit that Plaintiff's argument that he accidentally omitted the abandoned claims from his Amended Complaint fails. In support, Defendants point out that Plaintiff has been pursuing the claims against Ramsey County for four years, and this is the second time that Plaintiff has sued the same Defendants for the same alleged conduct. Defendants argue that Plaintiff is thus very familiar with the claims he is pursuing and that the omission of the claims from his Amended Complaint was properly deemed an abandonment.

Having carefully reviewed the record and considered Plaintiff's objections, the Court concludes that Plaintiff's objections do not warrant departure from the Magistrate Judge's recommendation. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

**ORDER**

1. Plaintiff DeJuan Haywood Haggins's objections (Doc. No. [58]) to Magistrate Judge Leo I. Brisbois's January 26, 2016 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Leo I. Brisbois's January 26, 2016 Report and Recommendation (Doc. No. [57]) is **ADOPTED**.

3. Defendant's Motion to Dismiss for Lack of Jurisdiction (Doc. No. [26]) is **GRANTED IN PART** and **DENIED IN PART**.

4. Plaintiff's claims against Defendant Sontoya are **DISMISSED WITHOUT PREJUDICE**.

Dated: March 15, 2016

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge